

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

SKMDV HOLDINGS, INC.,)	ED102493
)	
Respondent,)	Appeal from the Circuit Court
)	St. Louis County
vs.)	
)	Honorable Thomas J. Prebil
GREEN JACOBSON, P.C.,)	
)	
Appellant.)	FILED: April 12, 2016

Green Jacobson, P.C. ("Appellant") appeals from the trial court's judgment on a jury verdict, finding Appellant negligent and liable for the difference between the amount of money the jury believed Appellant's former client, DataVerify, should have received under a contract, and the amount it did receive, based on an admitted error in drafting the contract. We affirm in part and reverse in part.

AFFIRMED IN PART, REVERSED IN PART.

Division One Holds: In Missouri, a plaintiff alleging legal malpractice has the burden of proving the existence of an attorney-client relationship, negligence by the attorney, proximate causation of plaintiff's damages, and damages. Bryant v. Bryan Cave, LLP, 400 S.W.3d 325, 331 (Mo. App. E.D. 2013) (citing Klemme v. Best, 941 S.W.2d 493, 495 (Mo. banc 1997)). In Bryant, this Court stated, "[i]n the context of transactional malpractice, . . . we hold, that a plaintiff must show that an agreement more preferable to the plaintiff likely would have been consummated but for the negligence of the defendant attorney." 400 S.W.3d 325, 340 (Mo. App. E.D. 2013). The Missouri Supreme Court followed with a similar holding that a transactional malpractice plaintiff "must prove that [the other contracting party] would have agreed to the relevant provisions" and that "the result would have been more favorable." Nail v. Husch Blackwell Sanders, LLP, 436 S.W.3d 556, 566 (Mo. banc 2014).

Based on this substantive law, the trial court did not err in denying Appellant's motions for directed verdict and for judgment notwithstanding the verdict. The trial court also did not err in overruling Appellant's objections to submitting verdict director, Instruction No. 6, or in refusing to give an affirmative converse instruction based on whether DataVerify would have prevailed in a reformation action. Appellant's first, second, third, fourth, fifth, and sixth points are denied.

However, we find the amended judgment awarding post-judgment interest, without having such request in an authorized post-trial motion, untimely, and therefore void. See Antonacci v. Antonacci, 892 S.W.2d 365, 368 (Mo. App. E.D. 1995). Appellant's seventh point

is granted. We reverse the trial court's amended judgment and remand with instructions that the trial court void its amended judgment granting post-judgment interest.

Opinion by: Roy L. Richter, J.

Robert G. Dowd, Jr., P.J., and Mary K. Hoff, J., concurs.

Attorney for Appellant: Joseph F. Yeckel, Michael Gross

Attorney for Respondent: A. Elizabeth Blackwell, Jan Paul Miller

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.